

## CASE STUDIES: MINNEAPOLIS, MN

### The Minneapolis Staple Foods Ordinance: A novel policy approach to improving health food offerings in neighborhoods without full-service grocery stores

In 2014, the Minneapolis City Council approved and adopted what is now known as the Minneapolis Staple Foods Ordinance. The legislation amended a 2008 law, which was the first city ordinance in the country to require that licensed grocery stores carry a minimum level of certain staple foods. Most notably, the 2014 amendments strengthened the prior legislation by tightening compliance loopholes and mandating a more comprehensive range of staple-food stocking requirements.

#### THE PROBLEM

Poor health outcomes and insufficient access to healthy groceries in some parts of the city<sup>1</sup>

In 2009, the Minneapolis Health Department began looking at ways to improve the availability of healthy foods in parts of the city with high levels of unhealthy-weights. City health data indicated there was a correlation between low fruit and vegetable consumption and poor health outcomes, including diabetes and hypertension. Additionally, community partners were telling the Health Department that some of the city's most economically disadvantaged neighborhoods did not have equitable access to fresh produce and other healthy food options.

Health Department staff recognized that many residents in these neighborhoods were often relying on small stores—like corner stores, gas stations, dollar stores, and pharmacies—for their food needs. They also recognized that many of those stores were not offering much in the way of produce or other healthy food options. With this awareness, the Health Department sought to address the specific problem of limited healthy food and beverage options within retail food stores in neighborhoods without full-service grocery stores.



#### KEY DEMOGRAPHICS

<b>Population:</b> <sup>1</sup>	413,651
<b>Land Area (in sq. mi):</b>	53
<b>Race/Ethnicity:</b> <sup>2</sup>	63.8%-White 18.6%-Black or African American 5.6%-Asian 10.5%-Hispanic/Latino (of any race)
<b>Population by Age:</b> <sup>2</sup>	20.2%-under 18 years 71.2%-18-64 years 8%-65 year and older
<b>Education:</b> <sup>3</sup>	88.6%-High school graduate or higher 47.4%-Bachelor's degree or higher
<b>Median Household Income:</b> <sup>3</sup>	\$51,480
<b>Population in Poverty:</b> <sup>3</sup>	21.9% (compared to 11.3% statewide and 15.8% in the U.S. as a whole)
<b>Low Income and Low Food Access:</b> <sup>4</sup>	38.7% of census tracts (45 tracts)

## THE POLICY SOLUTION

Legislation aimed at increasing the availability of staple foods at food stores

Over the next few years, staff at the Minneapolis Health Department worked with the office of Minneapolis City Councilmember Cam Gordon, as well as a variety of other partners, to develop what is now known as the “Minneapolis Staple Foods Ordinance.” That legislation, which is officially simply titled “Grocery Stores,” is located at Title 10, Chapter 203 of the Minneapolis Code of Ordinances.<sup>2</sup> It was passed in 2014 and requires most businesses that are licensed as grocery stores to stock certain amounts of basic food items, including the following categories:

- Milk;
- Cheese;
- Eggs;
- Meat and vegetable protein sources;
- Fruits and vegetables;
- 100% juice;
- Whole grain cereal;
- Other whole grains;
- Canned beans; and
- Dried peas, beans, lentils.<sup>3</sup>

For each of the mandatory categories, additional requirements are specified, including permissible varieties, minimum unit amounts, and container sizes. For example, to meet the milk stocking requirements, stores must carry “five (5) gallons of unsweetened, unflavored, fluid cow’s milk in up to 1 gallon or half-gallon containers in any combination of at least two (2) of the following varieties: skim or nonfat, one (1) percent, or two (2) percent, or “plain” or “original” soy milk or other milk alternatives.”<sup>4</sup> Essentially, the ordinance says that stores that hold themselves out as grocery stores need to act like grocery stores and provide a variety of staple foods.

## BACKGROUND: Developments That Contributed To Policy Change

*In addition to evidence pointing to a need for increased healthy food access in some parts of the city, the momentum for the 2014 Minneapolis Staple Foods Ordinance was driven by at least three key developments that happened at both the local and federal levels.*

### Previous City-Level Legislation

The first development came in the form of 2008 amendments to strengthen operating requirements in what was initially a more basic grocery store licensing ordinance. Minneapolis Councilmember Cam Gordon, who sponsored both the 2008 and 2014 legislative changes, recalls many smaller stores were licensed as grocery stores but were really acting primarily as tobacco shops or other businesses, and only selling “a little bit of junk food.” As he puts it, the 2008 legislation was a way of saying, “If you are going to be a grocery store in our licensing code, act like one; have some actual food.”

One idea was to use Supplemental Nutrition Assistance Program (“SNAP”) requirements as a baseline for

licensing. However, during the drafting process Councilmember Gordon became aware that the food requirements for that program were, in his words, “abysmal.” As a result, he decided that at least a few staple-food-category requirements should be incorporated into the 2008 ordinance. As enacted, the 2008 ordinance required most establishments operating as licensed grocery stores to stock a specified number of varieties of foods from four basic categories (fruits and vegetables; dairy; bread or cereal; and meat, poultry, fish or vegetable proteins).<sup>5</sup>

The 2008 legislation was the first city ordinance in the country to mandate that grocery stores carry staple foods, but it was just the beginning.<sup>6</sup> In fact, Councilmember Gordon’s Policy Aide, Robin Garwood, recalls being surprised by how much interest there was about the 2008 legislation and coming to the realization that there was a need to bolster it to make it really impactful. Councilmember Gordon could see that was the way forward too. According to him, “It just seemed like the most effective way to actually make a difference was to change policy. We had this tool and we were regulating

grocery stores already and if we wanted them to sell more foods, we could strengthen the ordinance.”

## Changing Federal Standards

The second key development was the U.S. Department of Agriculture’s introduction of new requirements for the Special Supplemental Nutrition Program for Women, Infants, and Children (“WIC”). The new WIC standards were implemented by state agencies in 2009.<sup>7</sup> They were recommended by the Health and Medicine Division of the National Academies of Sciences, Engineering, and Medicine (formerly known as the Institute of Medicine) and provided a workable model for a more robust set of grocery stocking requirements in Minneapolis.<sup>8</sup>

Councilmember Gordon recalls that—in addition to facilitating compliance—using WIC standards appeared to be a promising path for improving health outcomes. Specifically, there was at least one study that pointed to improved healthy weight rates among children following changes to the WIC requirements.<sup>9</sup>

## A City-Level Voluntary Program

The third key development was a 2010 Minneapolis Health Department initiative known as the Healthy Corner Store Program. The program was created after Health Department officials began looking at whether the enhanced operating requirements in the 2008 grocery store licensing ordinance were increasing the availability of healthy foods.

The Healthy Corner Store Program was essentially a technical assistance package for store owners who were willing to voluntarily put more healthy foods on their shelves. Ultimately, the program provided evidence to support the conclusion that stores could achieve additional revenue by changing their product mix to include healthier options. However, the program was resource-intensive and limited in reach—serving less than 20% of the city’s corner stores.

Given those limitations, the Minneapolis Health Department decided to look at the specific policy option of strengthening the 2008 grocery store ordinance to broaden its reach and promote sustainable change.

## Timeline of Events

### 2008

Minneapolis enacts first-of-its kind legislation requiring grocery stores to stock certain staple foods.

### 2009

The Minneapolis Health Department begins assessing ways to curb unhealthy weights in communities with limited healthy food access.

New Federal WIC food package standards are implemented.

### 2010

The Minneapolis Health Department launches its Healthy Corner Store Program.

### 2012

Serious discussions regarding potential changes to the 2008 grocery store ordinance begin.

### 2013

Planning, community engagement and drafting of the 2014 Minneapolis Staple Foods Ordinance continues.

### 2014

Community Partner, BrightSide Produce is founded in June.

The Minneapolis Staple Foods Ordinance is adopted on October 31.

### 2015

The Minneapolis Staple Foods Ordinance goes into effect on April 1, with enforcement delayed for one year to allow time for implementation.

### 2016

Enforcement of the Minneapolis Staple Foods Ordinance begins on April 1.



Courtesy: Kristen Klingler at Minneapolis Department of Health

## STAKEHOLDER ENGAGEMENT

The process of developing what became the 2014 Minneapolis Staple Foods Ordinance began around 2012. Kristen Klingler, Assistant Manager of the Healthy Living Initiative at the Minneapolis Health Department, recalls that there was a core group involved in conceptualizing and drafting the 2014 ordinance. This group was comprised of staff from the Health Department, Councilmember Gordon's office, staff from the Business and Licensing Department, and Dr. Melissa Laska from the University of Minnesota School of Public Health.

In terms of community outreach, Councilmember Gordon recalls that the public was engaged through the city's food policy council, Homegrown Minneapolis, which held open houses and created posters. Homegrown Minneapolis and Dr. Laska's research team at the University of Minnesota also helped the Health Department evaluate the potential impact of the ordinance and advocated for the legislation. In addition, the Health Department received input from community members through other initial healthy food access work and at a public hearing before the Minneapolis City Council.

In addition to the general public, the Health Department and other partners also reached out to store owners across the city and to other industry representatives through focus groups, meetings with businesses and business associations, and mailings.



Courtesy: Kristen Klingler at Minneapolis Department of Health

## POLICY DRAFTING

*The drafters relied on the earlier 2008 legislation as a starting point for the 2014 legislation and used WIC requirements as a framework for enhancing the ordinance's stocking requirements. However, the University of Minnesota research team proposed modifications to the WIC standards based on the data they collected. As a result, the drafters made the stocking requirements in the Staple Foods Ordinance generally less prescriptive than the WIC standards. For instance, under the Staple Foods Ordinance, the vegetable stocking standards are more flexible to accommodate customer needs and cultural preferences for various types of produce.*

### Exemptions

Likewise, rather than just increasing the stocking requirements, the drafters also tried to minimize loopholes in the 2008 legislation while still recognizing three exemptions for certain types of stores.

One exemption is for gas stations with less than 300 square feet of retail sales area.<sup>10</sup> The drafters included it in recognition that some smaller operations are legitimately engaged in the primary business of selling gas.

The second exemption they included applies to businesses that meet the definition of "accessory use grocery."<sup>11</sup> The drafters created it to allow gift shops and stores exclusively selling narrow categories of foods like olive oil or spices to

continue to operate within their niches without being required to stock a full array of grocery items. It replaced a more vague “specialty food store” exception in the 2008 legislation and specifies that a business cannot meet the definition of an “accessory use grocery” if it accepts government supplemental nutrition programs (like SNAP or WIC).<sup>12</sup> Nevertheless, Councilmember Gordon is still concerned that the exemption may be a “big loophole.”

The third exemption applies to stores located in the central commercial district (i.e., downtown Minneapolis).<sup>13</sup> The drafters included it because of the district’s unique characteristics. Specifically, the downtown area’s residents are generally more affluent than the communities the drafters intended to target and its retail environment includes stores that cater specifically to day-time business in Minneapolis’s skyway system.

Notably, although the drafters intended to address the issue of low-quality food offerings in retail stores in target neighborhoods, with the exception of the central commercial corridor district exemption, the ordinance applies city-wide.

## **Linkages: Economic opportunities and equity issues**

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During the drafting process, Health Department staff saw that the ordinance might have beneficial economic impacts in addition to health impacts. Among other things, they hoped the planned changes to the law might support local economies by keeping purchases in the communities where people live and by generating additional revenue through increased product offerings.

As suggested above, they also saw the ordinance as an opportunity to improve equity. In particular, they recognized the unhealthy-weight issues and nutrition-related chronic diseases such as hypertension and diabetes that they were seeking to address are experienced at relatively higher rates by particular socioeconomic, racial and ethnic groups.

Like Health Department staff, Councilmember Gordon also saw the proposed ordinance as an obvious mechanism for addressing health inequities among different racial groups. However, during the process it became clear to him the legislation could have unintended negative consequences for minority store owners if the policy was not carefully crafted. Specifically, he realized many of the small store owners that would be most affected by the law were people of color whose businesses were already struggling.

That realization compelled the drafters to look for ways to provide technical assistance to support successful implementation and compliance.

*“All of a sudden it became clear to me that I might inadvertently be doing something that was going to create more disparities. It forced us to slow down.”*

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-Minneapolis Councilmember Cam Gordon

### **IMPLEMENTATION: Facilitation, Compliance, And Enforcement**

Ultimately, although not mentioned in the language of the ordinance itself, implementation supports were created. Specifically, staff from the Health Department worked with store owners to connect them to opportunities for low-interest loans, free merchandising supplies, refrigeration equipment, and other resources.

Still, many small store owners face the fundamental compliance challenge of being unable to source affordable produce in the quantities they need. In particular, local produce suppliers are structured to sell wholesale to full-service grocery

stores. This means they are selling produce in pallets, rather than pieces. The scale of that distribution model does not work for small stores, whose owners typically end up buying produce from other retail stores (and thus at retail prices) and then marking it up for sale to their customers. As a result, fruits and vegetables are often not affordable and may simply sit on the shelf.

To ameliorate the issue, City staff worked with the University of St. Thomas and local youth to create an innovative non-profit distributor called BrightSide Produce ("Brightside"). BrightSide facilitates compliance with the Minneapolis Staple Foods Ordinance by selling small quantities of high-quality produce to the small stores it serves at just a 10 percent markup over wholesale prices. The key to BrightSide's distribution model is a buyers' club made up of individuals who sign-up to receive produce bundles in different sizes, depending on their subscription level. The club essentially acts as a secondary buying pool that generates revenue and absorbs the surplus from bulk produce orders that exceed the stocking needs of the small stores BrightSide serves.

Notably, although buyers' club members pay a somewhat higher mark-up than Brightside's retail customers, they still receive the produce at prices that are more affordable than they would typically find at a grocery store. Members also report that their produce consumption has doubled on average as a result of being part of the program. University of Saint Thomas Professor, Adam Kay, runs BrightSide with the help of university students and community youth. "People are eating better," he says. "They're not joining to eat better. They're joining this in order to contribute to a social movement, but the consequence is that they're eating better."

In addition to increased produce access in underserved neighborhoods and increased produce consumption by club members, economic benefits also flow from BrightSide's work. For example, BrightSide hires youth in the communities they serve to help deliver produce and build relationships with store owners. This provides leadership opportunities for the young people, but also benefits BrightSide's mission because store owners are excited about working with them. Moreover, the youth employed by BrightSide are paid fifteen dollars an hour, which is considerably higher than current city or state minimum-wage requirements.<sup>14</sup>

Despite the benefits of BrightSide's model for retailers, communities, and consumers, compliance challenges are likely to continue for many small store owners. While Professor Kay is optimistic about expanding the model,



Brightside: Barbara Fuller, Mackenzie Burke, Deedee Fuller, Adam Pruitt.  
Photo by: ThreeSixty Journalism



Brightside: Ben Kachian, Steven Fuller, Tiara Gowen.  
Photo by: Emma Button



Brightside: Adam Pruitt, Deedee Fuller, Carly Dent.  
Photo by: Nora Gordon

BrightSide is currently working with just 20 to 25 stores. Moreover, even stores with significant buying power may find compliance to be a challenge—or simply an unwanted business expense. In fact, in May of 2016, one dollar store chain announced it would no longer accept SNAP benefits so that it would not have to follow the Minneapolis Staple Foods Ordinance.<sup>15</sup>

Additionally, logistics associated with issuing penalties and fines are another implementation complication of the Staple Foods Ordinance. One concern is that City health inspectors typically do not issue fines right away, but instead provide written warnings to allow store owners several opportunities to fix the problem. As a result, knowing that there will not be immediate penalties, some store owners may not try very hard to comply. Still, according to Kristen Klingler, compliance was above 60 percent in 2016, which is an increase from around 50 to 55 percent in 2015 when the ordinance first went into effect.



Brightside: Nick Hodge, Photo by: Adam Kay

## POLICY IMPACT

After the 2014 Minneapolis Staple Foods Ordinance went into effect on April 1, 2015, enforcement was delayed for one year to provide time for education, communication and technical assistance. At the time this case study was written, enforcement has been in effect for less than two years. Accordingly, Ms. Klingler says it is too early to fully know whether the ordinance is having the desired effects of increasing healthy food consumption and access in parts of the city with high levels of unhealthy weights.

Dr. Melissa Laska, a researcher at the University of Minnesota's School of Public Health, is currently evaluating the impacts of the ordinance with respect to both customer and store-owner behaviors. However, the study is not yet complete. In the absence of hard data, anecdotal evidence may suggest a gap between the available supply of healthy foods and the amounts that are actually being purchased.

Likewise, store owner behavioral changes may not be consistent. Ms. Klingler believes some store owners are embracing the requirements and experiencing increased sales. However, she also notes that others may be continuing to hold on to perceptions that their customers do not want to purchase some or all of the foods required under the Minneapolis Staple Foods Ordinance.

## LESSONS LEARNED

Some key lessons and best-practices were shared by the experts we spoke with for this case study. These lessons include the following:

- **Understand enforcement limitations.** The Minneapolis Staple Foods Ordinance may not be attaining maximum compliance due, in part, to limited enforcement. Lack of enforcement capacity and long-standing inspection processes and procedures may lead to similar situations in other municipalities.
- **Be prepared for obstacles to changing healthy food consumption patterns.** Although the research is pending, expanded healthy food offerings in Minneapolis grocery stores may not be enough to change buying habits. Coupling staple foods ordinances with demand-generation efforts such as marketing, financial incentives, or other strategies may also be required.

- **Consider “equity” from multiple angles.** Although the Minneapolis Staple Foods Ordinance was aimed at increasing healthy food access in economically disadvantaged areas of the city, proponents quickly realized it also had the potential to have unintended adverse impacts for minority store owners, who often own the types of stores most affected by the ordinance. This understanding was important for facilitating implementation because it led to increased technical assistance and other supports for store owners.

## ABOUT THE HEALTHY FOOD POLICY PROJECT

The HFPP identifies and elevates local laws that seek to promote access to healthy food while also contributing to strong local economies, an improved environment, and health equity, with a focus on socially disadvantaged and marginalized groups. HFPP is a multiyear collaboration of the Center for Agriculture and Food Systems at Vermont Law School, the Public Health Law Center, and the Rudd Center for Food Policy & Obesity at the University of Connecticut. This project is funded by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture.

## Additional Acknowledgements

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The HFPP also thanks its Advisory Committee members for their guidance and feedback throughout the project. Advisory Committee members are: Dr. David Procter with the Rural Grocery Initiative at Kansas State University, Dr. Samina Raja with Growing Food Connections at the University of Buffalo, and Kathryn Lynch Underwood with the Detroit City Planning Commission. Previous advisory committee members include Pakou Hang with the Hmong American Farmers Association and Emily Broad Leib with the Harvard Food Law and Policy Clinic. Renee Gross, JD, served as a project consultant from 2015-2018.

## Notes

<sup>1</sup> This case study relies heavily on information provided during interviews and subsequent communications with Kristen Klingler, Assistant Manager of the Healthy Living Initiative at the Minneapolis Health Department (August 21, 2017); Minneapolis City Council Member Cam Gordon and his Policy Aide, Robin Garwood (Aug. 30, 2017); and University of Saint Thomas Professor/BrightSide Produce Founder, Adam Kay (Aug. 31, 2017). The Healthy Food Policy Project collaborators thank these individuals for their contributions. We have not included citations to the information they have contributed throughout the body of this case study, but have relied upon it unless another source is indicated.

<sup>2</sup> MINNEAPOLIS, MINN., CODE. §§ 203.05 -.30 (2017).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* § 203.10(a)

<sup>5</sup> *Minneapolis City Council Official Proceedings*, MINNEAPOLIS, MINN. (February 29, 2008), available at <http://growingfoodconnections.org/wp-content/uploads/sites/3/1970/01/45-MinneapolisMN-StapleFoodOrdinance2008-015-2008.pdf>.

<sup>6</sup> *First Staple Foods Ordinance in Nation Now Setting Stronger Example for Other Cities*, MINNEAPOLIS, MINN. (2014), <http://www.minneapolismn.gov/news/WCMS1P-133374>.

<sup>7</sup> *WIC Program Overview and History*, NAT'L WIC ASS'N, <https://www.nwica.org/overview-and-history> (last visited Oct. 13, 2017); *Review of WIC Food Packages: Improving Balance and Choice: Final Report*, NAT'L ACADS. SCI. ENGINEERING & MED. 54 (2017), <https://www.nap.edu/read/23655/chapter/4#54> (The new requirements are consistent with federal dietary guidelines and were the first changes to the WIC food package in 35 years.).

<sup>8</sup> *Review of WIC Food Packages: Improving Balance and Choice: Final Report*, NAT'L ACADS. SCI. ENGINEERING & MED. 51, 83 (2017), available at <https://www.nap.edu/read/23655/chapter/4#54>.

<sup>9</sup> M.A. Chiason et al., *Changing WIC Changes What Children Eat*, 21:7 OBESITY 1423 (2013), available at <http://onlinelibrary.wiley.com/doi/10.1002/oby.20295/full>.

<sup>10</sup> MINNEAPOLIS, MINN., CODE. §§ 203.10, 203.30 (defining an “accessory use grocery” generally as a “retail establishment that sells staple foods as an accessory use to its primary business, or sells only specialized types or classes of staple foods and accessory foods...”).



<sup>11</sup> *Id.* § 203.30.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Minimum Wage*, MINNEAPOLIS, MINN., <http://minimumwage.minneapolismn.gov> (last visited Oct. 13, 2017); *Labor Standards -- Minnesota's Minimum-Wage Law*, MINN. DEPT LABOR & INDUS., <http://www.dli.mn.gov/LS/minwage.asp> (last visited Oct. 13, 2017).

<sup>15</sup> Erin Golden, *Minneapolis Healthy Food Rules Prompt Dollar Tree to Drop Food Stamp Benefits*, STAR TRIBUNE (May 6, 2016), available at <http://www.startribune.com/minneapolis-healthy-food-rules-prompt-dollar-tree-to-drop-food-stamp-benefits/378445251>.

## Key Demographics Table Notes

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<sup>1</sup> Source: Vintage 2016 Population Estimates: Population Estimates

<sup>2</sup> Source: 2010 U.S. Census Bureau, Quick Facts

<sup>3</sup> Source: 2011-2015 American Community Survey 5-Year Profiles

<sup>4</sup> Source: 2015 USDA/ERS Food Access Data